

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF ILLINOIS**

| | | |
|----------------------|---|-------------------|
| CARLIN ANDERSON, |) | |
| et al., |) | |
| |) | |
| <i>Plaintiffs,</i> |) | |
| v. |) | CIVIL ACTION NO. |
| |) | 3:23-cv-00728-SPM |
| KWAME RAOUL, et al., |) | |
| |) | |
| <i>Defendants.</i> |) | |
| |) | |

PLAINTIFFS’ REPLY IN SUPPORT OF MOTION TO LIFT STAY OF PROCEEDINGS

Plaintiffs, by and through their undersigned counsel, respectfully submit this reply in support of their motion to lift the stay of these proceedings. Exceptional circumstances justify this reply pursuant to SDIL-LR 7.1(c)(2), because Defendants raised the issue of consolidation of this case for the first in their response. *See* Dkt. 34.

All parties agree that the stay in this case should be lifted. Defendants further propose that the Court should either transfer this case to be considered together with *Morse v. Raoul*, No. 3:22-cv-02740-DWD, or that the *Morse* case should be transferred and considered together with this case. While Plaintiffs listed *Morse* as a related case on their civil cover sheet, *see* Doc. 1-1, the Court at that time did not order the two cases to proceed together. To the extent the Court considers reassigning either this case or *Morse* now, Plaintiffs submit that *Morse*, not this case, should be reassigned.

“No mechanical rule governs the handling of overlapping cases.” *Lewis v. Maverick Transportation LLC*, No. 3:22-CV-46-NJR, 2022 WL 17414979, at *5 (S.D. Ill. Dec. 5, 2022) (quoting *Blair v. Equifax Check Servs., Inc.*, 181 F.3d 832, 838 (7th Cir. 1999)), and “the Seventh Circuit Court of Appeals ‘does not rigidly adhere to the first-to-file rule,’” *Drake v. Procter & Gamble Co.*, No. 21-CV-279-DWD, 2021 WL 5039521, at *2 (S.D. Ill. Oct. 29, 2021) (quoting

Trippe Mfg. Co. v. Am. Power Conversion Corp., 46 F.3d 624, 629 (7th Cir. 1995)).

This matter was stayed pending this Court’s consideration of motions for preliminary injunction in four consolidated cases, 23-cv-141-SPM, 23-cv-192-SPM, 23-cv-209-SPM, and 23-cv-215-SPM, which this Court determined “could have a significant effect on this matter[.]” *Id.* This Court’s experience with those motions makes it well-positioned to address the similar issues in this case, including the application of *New York State Rifle & Pistol Ass’n v. Bruen*, 142 S. Ct. 2111 (2022), which types of items are covered by the plain text of the Second Amendment’s protection of “arms,” *see Barnett v. Raoul*, 2023 WL 3160285, at *8 (S.D. Ill. 2023), and what must be shown to demonstrate that a law banning certain types of arms is consistent with this Nation’s tradition of firearm regulation, *see id.* at *9–11. We are unaware of any similar engagement with *Bruen* by the presiding judge in the *Morse* litigation. Therefore, for the sake of judicial economy and efficiency, if any case is reassigned, it should be *Morse*.

May 30, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2023, I cause the foregoing to be filed using the CM/ECF system, which will send notification of such filing to counsel of record, who are registered CM/ECF participants.

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